

## 02/08/06 Draft – For Discussion Purposes Only

### **Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240 – Public Service Commission Chapter 40 – Gas Utilities and Gas Safety Standards**

#### **PROPOSED RULE**

#### **4 CSR 240-40.019 Natural Gas Utility Applications for Weather Usage Variation Rate Adjustment**

*PURPOSE: This rule sets forth the definitions, structure, operation, and procedures relevant to the filing and processing of applications for a weather usage variation rate adjustment (WUV) mechanism allowing periodic rate adjustments outside rate proceedings.*

- (1) This rule shall define the application procedures for gas distribution utilities to propose a weather usage variation (WUV) rate adjustment on customer bills. Nothing in this rule shall be construed as to allow a natural gas utility to make any application for recovery of any costs associated with natural gas not used by consumers as a result of customer conservation efforts or other non-weather related variations in customer usage.
- (2) The commission shall not grant applications for waiver of this rule in that section 386.266.12 expressly prohibits the commission from making any rate adjustment without having previously promulgated rules for the application process.
- (3) All proposals by the Commission to rescind, amend or promulgate new rules shall be approved by the Department of Economic Development pursuant to Section 536.200, shall contain an estimate in the aggregate as to the cost of compliance with the rule, amendment or rescission for all persons and entities affected pursuant to Section 536.205, published in the Missouri Register as provided in chapter 536, RSMo, and a hearing shall be held at which affected parties may present evidence as to the reasonableness of the proposed rule.
- (4) Any party to a rate proceeding where a WUV mechanism has been proposed to be established, modified or continued may propose that incentives or performance based programs be included in the WUV mechanism structured to align the interests of the natural gas utility's customers and shareholders. Any anticipated benefits to the natural gas utility's customers from the incentive or performance based program should exceed the anticipated costs of the program to the natural gas utility's customers.
- (5) Definitions. As used in this rule and 4 CSR 240-3.236, the following terms mean as follows:
  - (A) Weather Usage Variation Rate Adjustment (WUV): Periodic rate adjustments, outside of a rate proceeding, to reflect the non-gas revenue effects of increases or

decreases in residential and commercial customer usage due specifically to variations in weather.

(B) WUV Mechanism: The calculation methodology and associated determinants established in a rate proceeding that shall be used to establish increases or decreases in the WUV factor in subsequent WUV factor applications until the WUV mechanism is extended, modified or discontinued by the commission in a subsequent rate proceeding. The WUV mechanism will include provisions for WUV factor changes to reflect reconciliation and/or true-up amounts not yet recovered or credited to customers from a previous WUV period.

(C) WUV Factor – Reconciliation Amount: The portion of the WUV factor that is calculated to reconcile any under- or over-recovery of revenues compared to the amount of revenues that should have been recovered from or credited to customers under the WUV mechanism in effect during the immediately prior WUV period.

(D) WUV Factor – True-Up Amount: The portion of the WUV factor that is calculated to reconcile any under- or over-recovery of actual WUV factor revenues in the prior period compared to the revenues the WUV factor was designed to collect in the prior WUV period.

(E) Natural Gas Utility: A gas corporation as defined in section 386.020, RSMo.

(F) Bill Cycle Revenues: Total of all customers' bills for billable usage in a bill cycle in compliance with commission-approved tariffs. These revenues shall not include late payment fees, returned check fees and reconnection fees.

(G) Bill Cycle Distribution (Non-Gas) Revenues: Bill cycle revenues that vary with metered customer usage, other than those collected through PGA/ACA rates.

(H) WUV Period: Period not to exceed twelve (12) months, beginning with the first full calendar or billing month after the WUV mechanism becomes effective following a rate proceeding in which a WUV mechanism was established or beginning at the conclusion of the preceding WUV period.

(I) Rate Proceeding: General rate case or earnings complaint proceeding.

(J) WUV Factor: The rate value resulting from the currently effective WUV mechanism.

(K) WUV Surveillance-Monitoring Report—the form that will be utilized by each natural gas utility with a WUV mechanism for the purpose of submitting financial information to the commission.

(L) Natural Gas Utility Customer: An entity receiving a customer charge in a billing cycle as defined in the tariff.

(M) Billable Usage: Customer volumes metered (mechanically or electronically measured) in the bill cycle. (i.e. no estimated bills or re-bills from other periods).

(N) Customer Usage Bill: The dollar amount charged to the customer in the bill cycle determined by the tariff including customer charge and billable usage by block times the tariff rates.

(O) Bill Cycle: Period of days from a scheduled meter reading to the next for a customer which determines a scheduled billing for the customer.

(P) Metered Usage: Customer volumes mechanically or electronically measured during the bill cycle.

(6) Pursuant to the provisions of this rule, 4 CSR 240-2.060 and section 386.266, RSMo, any natural gas utility in a rate proceeding may file an application or proposed rate schedules with the commission to establish, modify, continue or discontinue a WUV mechanism or change its WUV factor. Any natural gas utility filing an application or proposed rate schedules with the commission to establish, modify, continue or discontinue a WUV mechanism or change its WUV factor shall meet the filing requirements in 4 CSR 240-3.236.

(7) The commission shall approve, modify or reject applications or proposed rate schedules to establish, modify or continue a WUV mechanism only after providing the opportunity for a full hearing in a rate proceeding. In any rate proceeding where a WUV mechanism is established, modified or continued the commission may take into account any change in business risk to the natural gas utility resulting from the WUV mechanism, in addition to any other changes in business risk experienced by the natural gas utility, in setting the natural gas utility's allowed return in any rate proceeding. Customer classes to be considered for this rate adjustment mechanism shall be limited to residential and commercial customers as specifically determined during the rate proceeding in which the WUV mechanism is established. Any WUV mechanism proposed shall be based on historical non-gas revenue effects of increases or decreases in residential and commercial customer usage due to variations in weather. Any parties may propose alternative WUV mechanisms for the commission's consideration in proceedings where a WUV mechanism is being proposed to be established, modified or continued by a natural gas utility. The commission may approve a WUV mechanism and associated rate schedules after considering all relevant factors which may affect the costs or overall rates and charges of the natural gas utility, provided that it finds that the WUV mechanism and WUV factor, if any, set forth in the rate schedules is reasonably designed to provide the natural gas utility with a sufficient opportunity to earn a fair return on equity and that:

(A) the WUV mechanism shall not be designed or used in a way as to allow the natural gas utility to earn an excess rate of return (i.e. a level in excess of the reasonable level) over the period;

(B) Conforms to the WUV mechanism approved by the commission;

(C) Includes provisions for an annual true-up which shall accurately and appropriately remedy any over- or under-collections, including interest at the natural gas utility's short-term borrowing rate, through subsequent WUV factor changes;

(D) The natural gas utility will include in its initial notice to customers, regarding the rate proceeding, an explanation of why it believes the WUV mechanism should be approved. If public hearings are scheduled regarding the rate proceeding, the notice to customers regarding the public hearing shall include a commission approved explanation of why the natural gas utility is requesting that the WUV mechanism be approved. Such notices shall be consistent with the example notice required by section (10)(A) of this rule or any modification of said example notice approved by the commission.

(8) Discontinuation of a WUV mechanism. The commission shall allow or require the rate schedules that define and implement a WUV mechanism to be discontinued and withdrawn only after providing the opportunity for a full hearing in a rate proceeding.

The commission will consider all relevant factors that affect the cost or overall rates and charges of the petitioning natural gas utility.

(A) Any party to a rate proceeding may oppose the discontinuation of a WUV mechanism and/or propose for the commission's consideration alternative WUV mechanisms including the continuation of the WUV mechanism or modification of the natural gas utility's previous WUV mechanism provided that it finds that it provides the natural gas utility with a sufficient opportunity to earn a fair rate of return on equity. Any WUV mechanism proposed shall be based on historical non-gas revenue effects of increases or decreases in residential and commercial customer usage due to variations in weather.

(B) The commission may approve the discontinuation, continuation or modification of a WUV mechanism and associated rate schedules provided that it finds that the proposed WUV mechanism is reasonably designed to provide the natural utility with a sufficient opportunity to earn a fair return on equity and so long as the rate schedules filed to implement the WUV mechanism conform to the WUV mechanism approved by the commission.

(C) The commission may take into account any change in business risk to the natural gas utility resulting from discontinuance of the WUV mechanism in setting the natural gas utility's allowed return in any rate proceeding, in addition to any other changes in business risk experienced by the natural gas utility.

(D) The natural gas utility will include in its initial notice to customers, regarding the rate proceeding, an explanation of why it believes the WUV mechanism should be discontinued. If public hearings are scheduled regarding the rate proceeding, the notice to customers regarding the public hearing shall include a commission approved explanation of why the natural gas utility is requesting that the WUV mechanism be discontinued. Such notices shall be consistent with the example notice required by section (10)(A) of this rule or any modification of said example notice approved by the commission.

(E) The natural gas utility shall meet the filing requirements in 4 CSR 240-3.236.

(9) Upon the filing of an application or proposed rate schedules to change a WUV factor, the commission shall provide notice of the filing to all the non-utility parties to the rate proceedings in which the currently effective WUV mechanism was approved.

(10) Any natural gas utility that has a commission approved WUV mechanism in effect in its tariffs shall provide the following notices to its customers:

(A) A one-time notice after each rate proceeding where a WUV mechanism is approved to be established, modified or continued to all potentially affected customers, such notice being sent to customers no later than one billing cycle before customers will receive their bill that includes a WUV factor, explaining how the WUV factor is calculated, how the WUV factor will be applied to its various customer classes and identifying the statutory authority under which it is implementing its WUV factor; and

(B) A line-item WUV factor description on all affected customer bills, which identifies the existence and amount of the WUV factor on the bills.

(C) These notices shall be submitted to the commission per 4 CSR 240-3.236.

(11) Periodic Adjustments to WUV Factor. If a natural gas utility files proposed rate schedules to adjust its WUV factor between rate proceedings, the staff shall examine and analyze the information filed by the natural gas utility per 4 CSR 240-3.236 and additional information provided through discovery, if any, to determine if the proposed adjustment to the WUV factor is in accordance with the provisions of this rule, section 386.266, RSMo and the WUV mechanism established in the most recent rate proceeding. The staff shall submit a recommendation regarding its examination and analysis to the commission not later than the end of the calendar or billing month following the month the natural gas utility files its proposed rate schedules to adjust its WUV factors. If the WUV factor adjustment is in accordance with the provisions of this rule, section 386.266 RSMo, and the WUV mechanism established in the most recent rate proceeding, the commission will either issue an interim rate adjustment order approving the rate schedules and the WUV factor adjustments on or before the first day of the third calendar or billing month after the natural gas utility's filing or, if no such order is issued, the rate schedules and the WUV factor adjustments shall take effect by operation of law on the first day of the third calendar or billing month after the proposed rate schedules were filed. If the WUV factor adjustment is not in accordance with the provisions of this rule, section 386.266 RSMo, or the WUV mechanism established in the most recent rate proceeding the commission will reject the proposed rate schedules on or before the first day of the third calendar or billing month after the natural gas utility's filing.

(A) Such filing shall include the quantification of the WUV Factor – True-Up Amount. Such filing shall include a WUV Factor – Reconciliation Amount only if the heating degree days for the WUV period exceed the normal level of heating degree days established in the WUV rate proceeding by more than 5% or if the heating degree days for the WUV period are less than 10% of the normal level of heating degree days established in the WUV rate proceeding.

(B) All applications or proposed rate schedules to change a WUV factor pursuant to this rule, shall demonstrate how the proposed periodic adjustment to the WUV factor reflects any current reconciliation amount in the WUV factor and any true-up amount in the WUV factor, if any;

(C) Any adjustments to balancing accounts resulting from the commission's review of a WUV factor adjustment filing shall occur either by a commission-approved agreement among the parties, by the commission allowing rate schedules to go into effect on their operation of law date, or by the commission's determination set forth in an order after a contested hearing, and any such adjustment shall be subject to collection or credit through the WUV factor;

(D) The natural gas utility must be current on its submission of its WUV Surveillance Monitoring Reports as required in 4 CSR 240-3.236 in order for the commission to process the natural gas utility's requested WUV factor adjustment unless good cause is shown to permit the WUV factor adjustment to take place absent the submittal of this information;

(E) If the staff, Office of the Public Counsel (OPC) or other party believes that the information submitted by the utility does not meet the requirements of this rule, 4 CSR 240-3.236, section 386.266 RSMo, or the WUV mechanism approved by the commission they will notify the natural gas utility within ten (10) days of the natural

gas utility's filing of an application or proposed rate schedules to adjust the WUV factors and identify the information required. The natural gas utility will supply the information identified by the party, or will notify the party that they believe the information provided was responsive to the requirements, within ten (10) days of the request. If the natural gas utility does not timely supply the information, the party requesting the information must timely file a motion to compel with the commission. While the commission is considering the motion to compel the processing timeline for the adjustment to the WUV factor shall be suspended. If the commission then issues an order requiring the information be provided, the time necessary for the information to be provided shall further extend the processing timeline for the adjustment to the WUV factor. For good cause shown the commission may further suspend this timeline.

(12) Timing of establishment of a WUV mechanism and the frequency of changes to a WUV factor shall be as follows:

- (A) Establishment of a WUV mechanism shall only occur during a rate proceeding in which the utility files proposed tariff sheets, or an application for a WUV mechanism. If a WUV mechanism is approved by the commission in a rate proceeding, rates that go into effect immediately following the rate proceeding shall not include any WUV factor related charges other than reconciliation and/or true-up amounts not yet recovered or credited to customers from a previous WUV period;
- (B) The natural gas utility shall file to change the WUV factor by the end of the first calendar or billing month following the WUV period; and
- (C) Applications to change a WUV factor at a different time than otherwise required may be approved by the commission. The staff, OPC or another party may petition the commission to order a natural gas utility to file an application to change a WUV factor.

(13) Balancing Account. Natural gas utilities that have a commission-approved WUV mechanism in place, or had a commission-approved WUV mechanism in operation and have any remaining over- or under-recovery balances, shall establish and/or maintain a balancing account to track monthly over- and under-recovery balances and associated interest. Account balances shall be collected or refunded through future WUV factor changes, subject to the following:

- (A) Each month the balancing account shall be credited or debited by the amount of the difference between any commission approved revenues and the actual amount of revenues calculated consistently with the WUV mechanism;
- (B) Each month the balancing account shall be credited with any over-recovery resulting from the operation of the Company's WUV mechanism or debited for any under-recovery resulting from same. Such over- or under-recovery shall be determined by a monthly comparison of the commission-approved WUV mechanism revenues and the actual WUV factor revenues where the difference is attributable to changes in customer usage due to variations in weather; and
- (C) Each month the balancing account shall be credited or debited by the amount of any commission-ordered credits or debits as a result of any WUV factor associated reviews;

(D) Each month, interest, at the natural gas utility's short-term borrowing rate shall be added to the balancing account balances. Interest shall be computed based upon the average of the accumulated beginning and ending monthly account balances; and  
(E) In the event that a WUV mechanism is discontinued any remaining over- or under-recovery balances shall be returned to or collected from customers over a period not to exceed twelve (12) months following the rate proceeding in which the WUV mechanism is discontinued.

(14) Any WUV factor shall be applied prorata to customers' bills for service rendered on and after the effective date of the rate change. Customer bills for billing periods during which more than one WUV factor is in effect during the billing period shall be prorated between the old and new rates in proportion to the number of days in the customer's billing period that each such rate was in effect. For good cause shown the commission may approve alternative methods of calculating the WUV factors to customers' bills.

(15) Maximum Duration of WUV Mechanisms and Requirement for General Rate Proceeding. Any commission approved rate schedules that include a WUV mechanism shall include a requirement that the natural gas utility shall file a general rate case with an effective date of new rates to be no later than four (4) years from the effective date of the commission order implementing the currently effective WUV mechanism unless a rate proceeding through a utility-initiated tariff filing is filed with respect to that natural gas utility within that four-year time period, or a complaint proceeding is completed within that time period. In the event a court determines that the WUV mechanism is unlawful and all moneys collected thereunder are fully refunded, the utility shall be relieved of any obligation under that adjustment mechanism to file a rate case.

(16) Any party to a rate proceeding where a WUV mechanism has been proposed to be established, modified, or continued may propose that features be included in the WUV mechanism to limit the volatility of rates as a result of changes in the WUV factor over a prescribed period of time.

(17) If the commission approves an incentive mechanism or performance based plan, such plan shall be binding on the commission for the entire term of the plan.

(18) The provisions of this rule shall have no effect on mechanisms and tariffs already approved and effective as of January 1, 2006. Provisions of this rule, other than sections (1), (2), (3), (4), (7), (10), (15) and (16), may be waived by the commission for good cause shown.

*AUTHORITY: sections 386.250 and 393.140, RSMo 2000, and section 386.266, SB179, effective January 1, 2006.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

**PRIVATE COST:** *This proposed rule will not cost private entities more than \$500 in the aggregate.*

**NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING:** *Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Cully Dale, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the Commission's offices on or before **Month/Day/Year**, and should include a reference to Commission Case No. **GX-2006-####**. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the Commission's electronic filing and information system at <http://www.psc.state.mo.us/efis.asp>. A public hearing regarding this proposed rule is scheduled for **Month/Day/Year**, at **Time** in Room **???** of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.*